

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

ANTHONY JOHN BORRELLI,  
individually and d/b/a  
STALLION ENTERPRISES

Defendant.

Civil No.

4:04 CV 00427 JCH

**COMPLAINT FOR PERMANENT INJUNCTION**

Plaintiff, the United States of America, in its complaint against defendant Anthony John Borrelli, individually and d/b/a Stallion Enterprises, states as follows:

**Nature of Complaint**

1. This is a civil action brought by the United States of America pursuant to 28 U.S.C. §§ 1340 and 1345, and Internal Revenue Code (I.R.C.) §§ 7402, 7407, and 7408 to enjoin defendant Anthony J. Borrelli, d/b/a Stallion Enterprises, from:
  - a. Engaging in conduct subject to penalty under I.R.C. § 6694, including preparing a return or claim for refund that includes an unrealistic or frivolous position;
  - b. Engaging in conduct subject to penalty under 26 U.S.C. § 6695, including failing to sign returns prepared by him, failing to furnish his tax identification number as required by 26 U.S.C. § 6109(a)(4), and failing to provide his customer list;
  - c. Misrepresenting his qualifications and eligibility to practice before the IRS and his experience or education as an income tax return preparer;
  - d. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through the preparation of false tax returns and/or representation of customers in front of the IRS;

- e. Preparing or assisting in the preparation of any federal income tax return for any other person or entity;
- f. Providing any tax advice or services for compensation, including providing consultative services or purported representation of customers;
- g. Engaging in conduct subject to penalty under 26 U.S.C. § 6701, including preparing and/or assisting in the preparation of a document related to a matter material to the internal revenue laws that includes a position that he knows will result in an understatement of tax liability; and
- h. Instructing or advising taxpayers to understate their federal income tax liabilities.

### **Jurisdiction**

2. This action has been requested by the Acting Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and I.R.C. §§ 7402(a) 7407, and 7408.

4. Venue is proper in the United States District Court for the Eastern District of Missouri under 28 U.S.C. § 1391.

### **Defendants**

5. Anthony J. Borrelli resides at 85 Lost Dutchman Drive, St. Peters, MO 63376. Borrelli operates Stallion Enterprises, an unincorporated business, from his residence.

### **Borrelli's Fraudulent Tax Preparation Scheme**

6. Borrelli, doing business as Stallion Enterprises, has been preparing fraudulent federal income tax returns, Forms 1040 and 1040X, for customers since at least 1995.

7. Borrelli guarantees his customers large federal income tax refunds if they agree to have him prepare their federal income tax returns.

8. Borrelli achieves the promised refunds by fraudulently offsetting his customers' taxable income with fictitious or inflated deductions. Examples of fraudulent deductions taken by Borrelli's customers include:

- a. Fictitious or inflated charitable contributions;
- b. Fictitious or inflated business deductions (for customers who have a sole proprietorship reported on a Schedule C);
- c. Fictitious or inflated unreimbursed employee business expenses;
- d. Fictitious or inflated education credits;
- e. Fictitious or inflated rental deductions (for customers who have rental income reportable on a Schedule E);
- f. Fictitious or inflated medical expenses;
- g. Fictitious or inflated "miscellaneous" deductions;
- h. Fictitious or inflated casualty loss deductions; and
- i. Fictitious or inflated Forms 4797 deductions (for losses from sale of business property);

9. On November 14, 2002 Borrelli was indicted in the Eastern District of Missouri on twenty-five counts of filing false tax returns, under 26 U.S.C. § 7206(b).

10. On February 2, 2004 Borrelli pled guilty on two counts of willfully aiding and assisting in, or procuring, counseling, and advising in, the preparation and presentation to the Internal Revenue Service of original and amended individual income tax returns, Form 1040 and 1040X, which were false and fraudulent as to material matters.

11. Borrelli continued to prepare false and fraudulent federal income tax returns after he was indicted under 26 U.S.C. § 7206(b).

**Borrelli's other Fraudulent or Deceptive Conduct**

12. Borrelli has illegally failed to keep and turn over to the IRS upon request his customer lists or copies of prepared returns.

13. Borrelli has failed to sign tax returns he prepares for customers.

14. Borrelli has failed to place his tax identification number on tax returns he prepares for customers.

15. Borrelli has misrepresented to his customers his education and his qualifications to represent customers before the IRS. Borrelli has falsely told customers that he has extensive training in the preparation of tax returns, that the IRS calls him to "do" amended tax returns, and that if customers were to be audited, he might be the auditor because he works with the IRS.

16. Borrelli has illegally attempted to impede the proper administration of the tax laws. Borrelli files fraudulent tax returns with the IRS, refuses to turn over his client lists or client returns as he is required to do under I.R.C. § 6107(b), and continued to prepare returns while falsely stating to the IRS that he has not prepared tax returns since 1997.

**Borrelli's Knowledge of the Illegality of his Conduct**

17. Borrelli knows or should know that his conduct is illegal.

18. Borrelli fails to provide his customers with Form 1040 Schedules he files on their behalf. Borrelli does this because he fears his customers will realize that their returns are fraudulent.

19. Borrelli claims to be an expert in tax law and to have extensive training in the

preparation of tax returns; therefore he knows or should know that return preparers cannot create deductions with no legal or factual basis.

20. Borrelli owns reference materials stating what deductions can and cannot be taken, therefore he knows or should know that a return preparer cannot create deductions with no legal basis.

21. Borrelli has been preparing federal income tax returns for individuals since at least 1995, therefore he should be knowledgeable concerning tax law.

### **Harm to the United States**

22. Borrelli prepared 188 federal income tax returns for customers for the 2000 through 2002 tax years, and an unknown number of returns for the 2003 tax year.

23. While the IRS has only begun to audit the 2000 through 2002 Borrelli-prepared returns, the IRS has determined the following:

- a. 186 of 188 returns (99%) claimed a refund or zero balance;
- b. The average refund claimed was \$3,503. This is 70% of the average withholding and payments contained on the 188 returns;
- c. 167 of the 188 returns (89%) contain questionable deductions or credits; and
- d. All 167 questionable returns contain deductions or credits similar to the 1994 through 1996 Borrelli-prepared returns, many of which the IRS has determined to be fraudulent.

24. The IRS determined that the understated tax liability from 251 Borrelli-prepared federal income tax returns (Forms 1040 and 1040X), from the 1994 through 1996 tax years, to be approximately \$965,346, or \$3,846 per return. Based on the similarity of the 1994 through 1996 returns to the 2000 through 2002 returns, the IRS predicts that the understated tax liability for

Borrelli-prepared 2000 through 2002 federal income tax returns is at least \$642,282 (167 x \$3,846). Some of these liabilities will never be recovered.

**Count I: Injunction under I.R.C. § 6701**

25. The United States incorporates by reference the allegations contained in paragraphs 1 through 24 above.

26. Section 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under 26 U.S.C. § 6701 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct. Section 6701 imposes a penalty on any person who aids in the preparation of any portion of a return or other document, having reason to know that the portion will be used to assert a position under the internal revenue laws, and knowing the portion will result in an understatement of another person's tax liability.

27. Borrelli has prepared federal income tax returns that he knows will result in the understatement of another person's federal income tax liabilities. Unless enjoined by this Court, Borrelli is likely to continue to engage in this conduct. Injunctive relief is appropriate under 26 U.S.C. § 7408.

**Count II: Injunction under I.R.C. § 7407**

28. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 24 above.

29. I.R.C. § 7407 authorizes a district court to enjoin an income tax return preparer from:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694 (which penalizes a return preparer who knowingly prepares or submits a return that contains an unrealistic position);

- b. Preparing income tax returns if the person has engaged in conduct subject to criminal penalty under the Internal Revenue Code;
- c. Engaging in conduct subject to penalty under 26 U.S.C. § 6695 (which penalizes a return preparer who wilfully fails to sign a return when required, who fails to furnish an identifying number as required, or who fails to keep a customer list as required by 26 U.S.C. § 6107(b));
- d. Misrepresenting his experience or education as an income tax return preparer;
- e. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- f. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws;

if the Court finds that injunctive relief is appropriate to prevent recurrence of such conduct.

Additionally, if the Court finds that the preparer has continually or repeatedly engaged in such misconduct and if the Court finds that a narrower injunction (*i.e.*, prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of federal tax laws, the Court may enjoin the person from further acting as a federal income tax return preparer.

30. Borrelli has engaged in conduct subject to penalty under I.R.C. § 6694 by preparing returns (Forms 1040) and claims for refund (Forms 1040X) based on frivolous and fraudulent deductions. Borrelli knew the positions he asserted on income tax returns were frivolous and unrealistic.

31. Borrelli has engaged in conduct subject to penalty under I.R.C. § 6695 by failing to keep (and turn over to the IRS upon request) a customer list or copies of customer returns as is required by I.R.C. § 6107(b).

32. Borrelli has engaged in conduct subject to penalty under 26 U.S.C. § 6695 by failing

to sign returns he prepares for others as required by law.

33. Borrelli has engaged in conduct subject to penalty under 26 U.S.C. § 6695 by failing to place his tax identification number on tax returns he prepares for others.

34. Borrelli has guaranteed the payment of tax refunds.

35. Borrelli has engaged in conduct subject to criminal penalty under the Internal Revenue Code;

36. Borrelli has misrepresented his education and experience as an income tax return preparer by claiming to be an expert in tax law and by claiming to work with the IRS.

37. Borrelli has engaged in fraudulent and deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

38. Borrelli's actions described above fall within I.R.C. §§ 7407(b)(1)(A), (B), (C), and (D), and are thus subject to injunction under § 7407.

39. Because of Borrelli's continual and repeated conduct subject to injunction under I.R.C. § 7407, combined with his other conduct described in this complaint, he should be permanently enjoined from acting as an income tax return preparer.

#### **Count II: Injunction Under I.R.C. § 7402**

40. The United States incorporates herein by reference the allegations in paragraphs 1 through 24 above.

41. Borrelli, through the conduct described above, has engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws. Unless enjoined by this Court he is likely to continue to engage in such conduct. His conduct causes irreparable injury to the United States for which the United States has no adequate remedy at law.



The United States is entitled to injunctive relief under I.R.C. § 7402(a) to prevent such conduct.

### **Appropriateness of Injunctive Relief**

42. Unless enjoined by the Court, Borrelli is likely to continue to engage in the conduct described in paragraphs 1 through 24 above.

43. Borrelli's conduct, as described in paragraphs 1 through 21 above, causes irreparable harm to the United States for which the United States has no adequate remedy at law. Specifically, Borrelli's conduct is causing and will continue to cause substantial revenue losses to the United States Treasury, some of which may never be recovered, thus resulting in a permanent loss. Unless Borrelli is enjoined, the IRS will have to devote some of its limited resources to detecting and auditing future fraudulent Borrelli-prepared returns, thereby reducing the level of service that the IRS can give honest taxpayers.

44. If Borrelli is not enjoined, he likely will continue to engage in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701.

45. If Borrelli is not enjoined, he likely will continue to engage in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

WHEREFORE, plaintiff United States of America prays for the following relief:

A. That the Court find that defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises, engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and that injunctive relief is appropriate under I.R.C. § 7407 to prevent Borrelli from acting as an income tax return preparer;

B. That the Court find that defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises, misrepresented his eligibility and qualifications to practice before the IRS and that

injunctive relief is appropriate under I.R.C. § 7407 to prevent Borrelli from engaging in further such conduct;

C. That the Court find that defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises, guaranteed the payment of tax refunds and that injunctive relief is appropriate under I.R.C. § 7407 to prevent Borrelli from engaging in further such conduct;

D. That the Court find that defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises engaged in conduct subject to penalty under 26 U.S.C. § 6701 and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent Borrelli from engaging in any further such conduct;

E. That the Court find that defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises, engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief against Borrelli is appropriate pursuant to I.R.C. § 7402(a) and I.R.C. § 7407 to prevent recurrence of that conduct;

F. That the Court, pursuant to I.R.C. § 7407 and 7408, enter a permanent injunction prohibiting defendant Anthony J. Borrelli, individually and d/b/a Stallion Enterprises, from acting as an income tax return preparer;

G. That the Court, pursuant to I.R.C. § 7402 enter an injunction requiring Borrelli to contact all persons for whom he prepared federal income tax returns or any other federal tax forms after January 1, 2000 and inform those persons of the entry of the Court's findings concerning the falsity of his representations, the falsity of the tax returns prepared on their behalf, the possibility of the imposition of penalties against them, the possibility that the United States may seek to collect any additional federal income taxes, penalties, and interest which they may

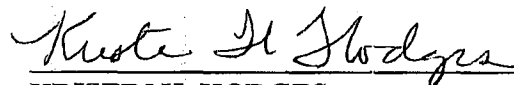
owe, and the entry of the permanent injunction against Borrelli;

H. That the Court, pursuant to I.R.C. §§ 7402 and 7407 enter an injunction requiring Borrelli to turn over to the United States all copies of returns or claims for refund and the name and taxpayer identification number of all taxpayers for whom such returns or claims for refund were prepared since January 1, 2000;

I. That the Court enter an injunction ordering that the Government, to monitor Borrelli's compliance with the injunction, may engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

J. That the Court grant the United States such other and further relief as the Court deems appropriate.

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